THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.14313 OF 2006

Dated: 24th July, 2006.

Between:

Smt. D. Rudramma .. Petitioner

And

1. The Collector & District Magistrate, Kurnool, Kurnool District & another. .. Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

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ORDER :

The petitioner is working as Thoty in the ESI Hospital, Kurnool, having been appointed so on 10-12-2001 following due process of selection. It is not in dispute that she was appointed under ST category after being sponsored through the Employment Exchange, Kurnool. While so, on a complaint received by the office of the 2nd respondent alleging that the petitioner had obtained ST community certificate fraudulently, the 2nd respondent issued a notice dated 9-2-2004 directing her to attend the enquiry on 13-2-2004 with all the documentary evidence in support of her community claim. Accordingly, the petitioner had attended before the District Level Scrutiny Committee on 13-2-2004 and stated that she originally belonged to Chenchu Koya community which is a Scheduled Tribe, however she married one B. Kameswara Rao who belongs to BC (A). Their marriage took place in the year 1983 and much prior to that she got registered her name in the Employment Exchange, Kurnool for unskilled job under ST category. Thereafter, her name was sponsored by the Employment Exchange, Kurnool and she was appointed as Thoty in ESI Hospital on 10-12-2001. Her service was regularized and probation was also declared and therefore the allegation that she obtained the community certificate fraudulently is incorrect.

Subsequently, a show-cause notice dated 29-11-2005 issued

by the 1st respondent was served on the petitioner stating that the District Level Committee which met on 8-11-2005 found that the petitioner belongs to BC (A) caste and accordingly recommended for cancellation of the ST certificates obtained by the petitioner from the Mandal Revenue Officer, Yemmiganuru and the Mandal Revenue Officer, Kalluru and accordingly calling upon the petitioner to show-cause as to why the Koya Caste certificate shall not be cancelled. The petitioner submitted an explanation dated 20-12-2005 denying the allegations and requesting to drop further action. She also made a request to the 1st respondent to supply copies of the report of the Vigilance and Enforcement Department, dated 15-9-2004 and the report of the Scrutiny Committee dated 8-11-2005, on the basis of which the show-cause notice dated 29-11-2005 was issued. The documents required by the petitioner were furnished by the 1st respondent vide letter dated 28-4-2006 and she was directed to offer her explanation along with certain other documents/information specified thereunder within fifteen (15) days. Having received the said documents, the petitioner addressed a letter dated 5-5-2006 to the 1st respondent requesting to grant time till 15-6-2006 to enable her to submit the explanation and to produce the required material. Since the petitioner failed to comply with the same, the 1st respondent issued a further notice dated 28-6-2006 calling upon the petitioner to submit her explanation within ten (10) days.

This writ petition is filed seeking a declaration that the notices issued by the 1st respondent dated 29-11-2005, 28-4-2006 and 28-6-2006 are arbitrary, illegal and violative of the principles of natural justice apart from being contrary to the provisions of A.P. (SC, ST & BCs) Issue of Community, Nativity & Date of Birth Certificates Rules, 1997 (for short, 'the Rules').

I have heard the learned Counsel for the petitioner and perused the material on record.

The learned Counsel for the petitioner vehemently contended that since the respondents failed to follow the procedure prescribed under the Act and the Rules, the impugned notices are ex facie illegal and liable to be set aside.

It is to be noted that the impugned notice dated 29-11-2005 is only a show-cause notice and it is always open to the petitioner to raise all the objections on facts as well as law, in which event, the same will be considered and appropriate orders will be passed by the 1st respondent in accordance with law. As on to day, it cannot be said that there is any adverse order affecting the rights of the petitioner and therefore the writ petition at this stage is premature.

Accordingly, the Writ Petition is dismissed. However, the petitioner is granted liberty to submit his explanation within 2 weeks from the date of receipt of this order. If any such explanation is received within the time fixed above, the respondent shall consider the same and pass appropriate orders in accordance with law. No costs.

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G. ROHINI, J.

Dt. 24 -7-2006

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